IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 20TH NOVEMBER 2006 / 29TH KARTHIKA 1928

Cont.Case(C).No.492 of 2006(S)

JUDGEMENT IN W.P.(C).NO.1374/2006 DATED 17/01/2006
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PETITIONER:-

V.B. PETER, S/O. BAPPU,
AGED 57 YEARS, BOAT MASTER (RETD.),
STATE WATER TRANSPORT DEPARTMENT,
RESIDING AT VELLIYIL HOUSE, APPOLO ROAD, SINCERE LANE,
THAMMANAM P.O., ERNAKULAM.

BY ADV. SRI.K.JAJU BABU

RESPONDENT:-

SHRI A. SAYED HUSSAIN KOYA THANGAL,
AGED ABOUT 54 YEARS,
FATHER'S NAME NOT KNOWN TO THE PETITIONER,
DIRECTOR IN-CHARGE,
STATE WATER TRANSPORT DEPARTMENT, ALAPPUZHA.

BY GOVERNMENT PLEADER SRI.T.B.HOOD.

THIS CONTEMPT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 20/11/2006, ALONG WITH CONT.CASE (C).NO.500 OF 2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K.Bali,C.J. & S.Siri Jagan,J.

Cont.Case (C).Nos.492 of 2006-S & 500 of 2006-S

Dated, this the 20th day of November, 2006

JUDGMENT

V.K.Bali,C.J. (Oral)

By this common order we propose to dispose of two connected matters, bearing Contempt Case (C).Nos.492 of 2006 and 500 of 2006.

2. The complaint in Cont.Case (C) No.492 of 2006 is non-compliance of the orders passed by this Court in W.P.(C) No.1374 of 2006 dated 17.01.2006. The operative part of judgment said to be containing the direction which has not been complied with, reads as follows:-

> "The petitioners, who are working in the State Water Transport Department, are aggrieved that they have not been granted the 3rd higher grade. Having regard to the grounds raised by the petitioners in this writ petition and the submissions of Sri.K.Jaju Babu learned counsel for the petitioners and those of Sri.K.I.Abdul Rasheed, learned Government Pleader for the official respondents, this writ petition will stand disposed of in the following terms:-

> The first respondent, who is presently in seisin of Ext.P2, will consider the same in the light of the various grounds raised in this writ petition, the documents particularly Exts.P1 and P3 and take a correct and just decision on Ext.P2 at his earliest and at any rate within one month of the petitioners producing a copy of this judgment together with a copy of this writ petition and all the exhibits before him".

Similar order has been passed in W.P.(C).No.816 of 2006, non-compliance of whereof has been complained in Cont.Case(C). No.500 of 2006.

3. Pursuant to the directions as reproduced above, the respondent has considered the matter, which was directed to be done, and passed orders Annexure-B, which has been cancelled in reconsideration of the matter as per Annexure-C order. In these contempt petitions, we cannot examine the legality or propriety of the order Annexure-C dated 24.3.2006. This Court could only consider whether the respondent has committed contempt or not. On facts, as mentioned above, it cannot be successfully urged that the respondent has committed any contempt. The only opening to the petitioners, it appears to us, is

to challenge the order Annexure-C and it is informed by the learned counsel for the petitioners during the course of argument that the same is under challenge in W.P.(C).No.17559 of 2006. Subject to the right of the petitioners to agitate their claims in that writ petition, these contempt petitions are closed.

Sd/-
V.K.Bali
Chief Justice

Sd/-
S.Siri Jagan
Judge

vku/-

- true copy -

P.A.to Judge.